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September 23, 2013

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 09-182, 2010 Quadrennial Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; MB Docket No. 07-294, Promoting Diversification of Ownership in the Broadcasting Services

Dear Ms. Dortch,

We write to express our concern regarding filings by the Minority Media Telecommunications Council (“MMTC”) in response to our comments and reply comments on its cross-ownership survey. MMTC’s submissions purported to study the impact of cross-media interests on ownership by women and people of color, and its subsequent filings disputed Free Press’s detailed descriptions of the flaws in MMTC’s study design, data and analysis.

As a baseline matter, there seems to be some confusion on MMTC’s part as to the purpose of the unique comment cycle on its survey. In response to our comments, replies and other filings on this topic, MMTC’s overarching theme has been that “Free Press has not seriously addressed...significant concerns about our nation’s newspaper industry” and “primarily attack[ed] our study’s methodology.”¹ These statements imply that we have somehow subverted the purpose of the comment period by highlighting the flaws in MMTC’s study.² However, the Public Notice, per MMTC’s suggestion, invited comment on that very topic, regarding “the extent to which the Study may or should be relied on by the Commission in the ongoing ownership and diversity proceedings.” Certainly, the reliability of a study’s methodology speaks directly to the reliability of that study’s conclusions. Therefore, that MMTC’s methodology was deeply flawed indicates that its conclusions cannot justify any changes to the Commission’s ownership rules.

Furthermore, as discussed below, MMTC’s assertions that Free Press was mistaken in our characterizations of the study’s flaws, that we have not addressed concerns regarding the state of

¹ Letter from David Honig, President, Minority Media and Telecommunications Council to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket Nos. 09-182, 07-294, at 2 (Aug. 20, 2013) (“MMTC Response Letter”).

² The Commission should also note that, when appropriate, Free Press has addressed concerns about the nation’s newspaper industry at length. *See* Comments of Free Press, MB Docket Nos. 09-182, 07-294, at 28-39 (filed Mar. 5, 2012); Reply Comments of Free Press, MB Docket Nos. 09-182, 07-294, at 13-18 (filed April 17, 2012).

the newspaper industry, or that there was an onus upon us to conduct the proper analysis that MMTC failed to execute at this time, are all patently false.

First, contrary to its insistence that our arguments are without merit, MMTC in fact agrees with or acknowledges some of our conclusions, while it plainly ignores the lion's share of those arguments. In its Response Letter airing its grievances with Free Press's reply comments, MMTC outlined six arguments it deemed as "without merit."³ Notably, MMTC's first and third grievances are derived from a single error we identified,³ so from the outset, MMTC does not disagree with Free Press on as many counts as it would have the Commission believe. The "discrepancy" referenced in MMTC's first rebuttal is an omission that MMTC acknowledges it made: the exclusion of several "minority-owned" broadcast stations contacted by the study's authors from a list purporting to detail that specific group of owners. Therefore, we already see that a third of our so-called "meritless" claims are in fact true.

MMTC also took issue with Free Press pointing out that MMTC erroneously identified certain stations as female- and/or minority-owned. In response to this discovery, MMTC dismissed its error and pinned the blame on the Commission's databases.⁴ Thorough research demands that the researcher check its sources and Free Press did just that. We verified current ownership status by looking at the applications database, which, given the relatively small universe of minority owners contacted, required less than an hour to complete. Negligence on MMTC's part does not constitute a Free Press error, or lack of merit in our objection. The reality remains that MMTC indeed did mistakenly identify certain stations as female and/or minority-owned, further whittling its grievances down to three.

Those three remaining objections are unsustainable as well. Another of MMTC's points of contention is that we have provided no evidence that MMTC's approach to unaided recall could not produce valuable, generalizable information.⁵ However, in our discussion of the Study's methodology in our initial comments, we cited academic treatises from Stephen Young, William R. Shadish and others to support our explanation. Shadish and his co-authors penned the preeminent text on quasi-experimental methodology. They have concluded that surveys like MMTC's are rarely effective in providing information on causation. We could cite other expert sources,⁶ but it does not take an expert to see the major issues created, for example, by MMTC's

³ MMTC Response Letter at 2-3.

⁴ *Id.* at 3.

⁵ *Id.*

⁶ See, e.g., Casey Sweet, "Designing and Conducting Virtual Focus Groups," 4 *Qualitative Market Research: An International Journal* 130 (2001) (noting that even real-time online surveys, something far more involved than what MMTC did, "may not always provide the depth of response necessary"); see also, e.g., Reppel *et al.* "Conducting Qualitative Research Online—An Exploratory Study into the Preferred Attributes of an Iconic Digital Music Player," 8 *European Advances in Consumer Research* 519 (2008) (describing an online laddering approach, which involves the type of follow-up interviews critical to qualitative research that we discussed in our initial and reply comments); Malcom Williams, "Making Sense of Social Research," 50-58 (2003) (describing in detail the validity issues raised using simple surveys in qualitative research, particularly the problems associated with trying to generalize the *lack* of a response in a small sample to a broader population, as MMTC did); Duda *et al.*, "The Fallacy of Online Surveys: No Data Are Better Than Bad Data," 15 *Human Dimensions of Wildlife* 55 (2010) (describing the exact types of non-response and stakeholder bias issues that plague the MMTC study).

generalizing answers from just two self-selected online survey respondents to the entire population of commercial broadcast television owners.

What's more, MMTC falsely suggests that Free Press has accused MMTC of intentionally or inappropriately biasing the Study's results.⁷ At no time has Free Press said that MMTC coached respondents on how to answer survey questions. We merely noted that any conflicts of interest or potential conflicts should have been disclosed; and that, hypothetically, if BIA-Kelsey identified any potential conflicts, it should have removed those potential respondents from the survey pool, and/or MMTC should have pointed out their presence once the list of contacted licensees was completed.

Disclosures of actual and potential conflicts of interests are standard in any research setting and in any industry, from financial services to news reporting.⁸ A conflict of interest does not necessarily indicate that any impropriety has occurred. However, it is incumbent upon those with the power to influence to be transparent regarding their relationships. If and when such relationships are present, a disclosure will assuage skepticism.

Not only did MMTC fail to disclose its relationships with certain owners it contacted, MMTC refused to disclose *any* information about who responded, further compounding the problem. To best understand minority vs. female, big vs. medium vs. small markets, and group vs. singleton owner status, MMTC should have at least generically disclosed those distributions of the sample. However, that it continues to refuse to provide this information, and also refuses to acknowledge the potential for undisclosed conflicts of interests, combine to further undermine the study's utility.

MMTC has also misguidedly called our characterization of the peer review process "pure hyperbole" and "unsubstantiated by the record."⁹ If our account of the peer review process was unsubstantiated by the record, that is only because the record did not contain any formal peer reviews.¹⁰

That the study did not include a copy of any peer reviews flowed from the fact that in place of a formal process, MMTC conducted only a pair of conference calls. This was only the first departure from typical peer reviews. The record now contains a reply comment from Dr. Phil Napoli, who outlined yet another departure from standard peer review practice: that MMTC was both the organization soliciting the review and the organization commissioning the study.

⁷ See MMTC Response Letter at 3.

⁸ Kara Swisher from All Things Digital provides a worthwhile example of full disclosure in light of a potential conflict of interest. Swisher's partner is an executive at Google and Swisher frequently reports on Google and its products. In the interest of transparency, Swisher has disclosed the nature of her partner's work, her financial interests and the limited degree to which those interests co-mingle. Kara Swisher, *Ethics Statement*, <http://allthingsd.com/20101210/full-disclosure-about-full-disclosure-in-blogs/#kara-ethics> (last visited September 4, 2013).

⁹ MMTC Response Letter at 3-4.

¹⁰ Furthermore, we did have off-the-record conversations with several of the study's peer reviewers prior to filing our initial comment in this proceeding. Our characterization of the peer-review process in our comments was informed by those conversations.

Napoli raised this distinction to make it clear he did not agree to review the study with any expectation that he would be endorsing its conclusions by doing so.

Moreover, the quotes that MMTC has cherry-picked from Napoli's reply comments are hardly indicative of any support. Napoli merely commended MMTC's "effort" to provide qualitative research and expressed that, in general, an expansion of methodological approaches to include qualitative research was "potentially valuable."¹¹ We do not deny that MMTC made an effort. However, that effort has fallen short of its potential and failed to produce valuable conclusions due to the shortcomings Napoli, Free Press, other public interest groups, civil rights groups, and diverse broadcasters have highlighted.

Additionally, in response to MMTC's recent submission concerning station valuation,¹² we note a glaring inconsistency in the story told by MMTC's outside experts. They make the broad claim that, in their experience, cross-ownership does not impact the valuation of stations in a market. They then note that *certain* forms of cross-ownership, such as the radio-TV-newspaper combination generically described in the MMTC study, do in fact impact the valuation of the stations in such a market. This is yet another example of the problems created by MMTC's continued lack of specificity between radio-newspaper combinations and television-newspaper combinations. It is nonsensical to claim that a newspaper-TV combination has no impact on the valuations of the handful of remaining TV stations in a market, only to then claim that the valuation of those TV stations would change if the owner added one in-market radio station to this combination.

Finally, MMTC and industry commenters in this proceeding have perpetuated the notion that some onus was on Free Press to conduct a study or propose a design for a study at this time. Again, the purpose of this comment cycle was to analyze the MMTC study, which had already been completed. Furthermore, Free Press has indeed conducted two studies that considered the issue of cross-ownership's impact on ownership diversity. We took on the arduous task of providing the first-ever complete accounting of minority and female ownership and released *Out of the Picture* in 2006 and *Off the Dial* in 2007,¹³ which studied the relationship between consolidation and diverse ownership in the television and radio broadcast markets respectively. Then, as recently as December 2012, we worked to correct errors in the Commission's Form 323 data report and to examine the entry and exit of diverse owners over the last seven years.¹⁴ Respectfully, we resent the implication that we have not worked ardently to arm the Commission with quality research and analysis as it considers changes to its rules that could gravely impact diverse ownership and the country's media landscape as a whole.

¹¹ Reply Comments of Philip M. Napoli, MB Docket Nos. 09-182, 07-294, at 3 (filed Aug. 5, 2013).

¹² See Letter from David Honig, President, Minority Media and Telecommunications Council to Marlene H. Dortch, Secretary, Federal Communications Commission MB Docket Nos. 09-182, 07-294 (filed Aug. 29, 2013); Statement of Broadcast Valuation Experts, MB Docket Nos. 09-182, 07-294 (filed Aug. 29, 2013).

¹³ S. Derek Turner, *Out of the Picture: Minority & Female TV Station Ownership in the United States, Current Status, Comparative Statistical Analysis & the Effects of FCC Policy and Media Consolidation* (2006); S. Derek Turner, *Off the Dial: Female and Minority Radio Station Ownership in the United States* (2007).

¹⁴ See Comments of Free Press, MB Docket Nos. 09-182, 07-294, at 12-17 (filed Dec. 21, 2012).

Yet that does not mean that either Free Press, MMTC, or any other party can relieve the Commission of its own burden to engage in reasoned decision-making, as required by law and by the decisions of the Third Circuit in that court's review of the quadrennial process. We urge the Commission to take a comprehensive view of the effect that local media consolidation has on small station group owners and single broadcast license holders so that it might adopt policies to increase broadcast ownership by women and people of color.

Respectfully Submitted,

\s\ Lauren M. Wilson

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